IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR. JUSTICE J.CHELAMESWAR
And
THE HON'BLE MR. JUSTICE D.APPA RAO

WRIT PETITION NO. 11438 OF 2006

Between:

M/s. Sri Ram Suckereiddes Pvt. Limited,
Aswaraopet, Khammam District,
Rep. by its Managing Director,
Mr. V.V.S.Rama Rao

Petitioner

AND

The Asst. Commercial Tax Officer-II,
Warangal Division, Warangal and others

Respondents

Dated: 24th August, 2006

ORAL ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a Private Limited Company and a registered dealer with the first respondent under the Andhra Pradesh General Sales Tax Act, 1957, carrying

on trading business in deconal. For the assessment year 2001-2002, the first respondent assessed the liability of the petitioner on turnover of Rs.1,21,12,833/- at 12%. Aggrieved by the same, the petitioner carried the matter in appeal before the Second Respondent.

Essentially the dispute is about the rate of tax. However, appeal of the petitioner was rejected by the second respondent, on the ground that the petitioner did not deposit 12.5% of the disputed tax, as a condition precedent, for maintenance of the appeal, by order dated 23.6.2005.

The petitioner carried the matter in further appeal to the Sales Tax Appellate Tribunal and the same is said to be pending in TA No.723 of 2005. During pendency of the appeal, the petitioner, it appears, filed an application before the third respondent seeking stay of collection of the disputed tax. . The said application was rejected by the third respondent by order dated 15.5.2006. Hence, the present writ petition is filed with the following prayer:

> "…For the reasons stated in the accompanying affidavit, it is prayed that6 the Hon'ble Court may be pleased to issue a writ or Certiorari or any other appropriate writ or order or direction quashing that the order of the 3rd respondent in CCT's Ref. LV(4)/745/2006 dated 15.5.2006 as illegal, arbitrary and unjustified and consequently restrain the 1st respondent from taking any coercive steps for recovery of the balance

> disputed tax of Rs.4,79,058/- out of total disputed tax of Rs.9,68,707/- for the assessment year 2001-2002 pending disposal of the Appeal before the Sales Tax Appellate Tribunal in T.A. No. 723 of 2005 and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case…"

The matter was admitted on 13.06.2006 and interim order was granted as prayed for.

When the matter is taken up, it is represented by the learned counsel for the petitioner that as on today, the petitioner has already paid 50% of the disputed tax amount. This fact is not in dispute. Counter is also filed by the respondent.

In the circumstances, we are of the opinion that this writ petition can be dispose of by directing the respondents not to take any coercive steps for recovery of the balance amount of tax, which is subject matter of appeal before the Sale Tax Appellate Tribunal.

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J.Chelameswar, J.

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D.Appa Rao, J.

August 24, 2006
MAS.